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BOOK REVIEWS

A HISTORY OF DIVORCE. By S. B. Kitchin. Cape Town: J. C. Juta & Co., 1913.

Cessante ratione legis, cessat lex, is a legal maxim the application of which, though frequent, is almost invariably too long delayed. Anachronisms which so often underlie rules of law and procedure are preserved not only through the inherent conservatism of the people interested in their operation, but through an actual ignorance of the source and history of their growth. The progress of legal reforms, hindered by such conservatism, can best be aided by a clear and simple exposition of the history behind the subject of attack. After such an analysis the absurdity of an outworn law or rule becomes so apparent that its complete rejection can be more hopefully expected. Mr. Kitchin, who is the editor of the South African Law Journal, has done this service for the law of divorce. By tracing its history from early Roman times down to our own, he shows that much of the modern "problem" of divorce is a fabrication of our own, and that many of the measures adopted in civilized countries to improve conditions are still almost medieval in concept. According to him, the doctrine of the indissolubility of marriage was a creation not of the early Christian fathers, but of the ecclesiastics who elaborated the Canon Law in the early Middle Ages. Out of the ecclesiastical courts grew the opposition to divorce which has been transmitted to us as an inherited prejudice. The Reformation had no improving effect on the law of divorce, and most of the present-day machinery of divorce is still built on the patterns of that age. Our "judicial separation" is the modern form of the decree of enforced chastity,—both breeders of immorality. The publicity of a law suit and the unnecessary fiction of parties nominally adverse in cases where both agree a divorce is necessary are also legacies from a past when clerics made laws to fit theological dogma but not the popular will. When Rome flourished, divorce, like marriage, was allowed by the mutual consent of the parties; to return to that simple procedure and repudiate the fantastic interpretations of scriptural phrases which have been enacted into the laws of divorce is the only means by which, the author believes, the confusion and injustice of the divorce laws of today can be eradicated.

Mr. Kitchin's style is spirited and lively, without descending to what a scientist would term the popular level. He is evidently in thorough sympathy with the modern feminist movement, and writes as the champion of women, attacking an institution which has worked them untold injustice for centuries. His review of the subject is comprehensive, drawn from a wide variety of authorities, and especially valuable as the first history of divorce from the modern viewpoint. It will be valuable to legislators (if they can be got to read it), and to students of comparative law.

Perhaps it is ingenuous to remark upon it, but an American reader cannot help being struck with the excellence of form in which the work appears, despite the distance of the land of its origin from the metropolis. The external design, as well as the matter within, convey the impression of dignity that is associated with the best books from this side the equator. Standing on one's shelf the book is a visible reminder of the remarkable unity of ideas among all the English speaking peoples, though vast oceans lie between them.

S. R.

REGULATION, VALUATION AND DEPRECIATION OF PUBLIC UTILITIES. By Samuel S. Wyer. Columbus, Ohio: The Sears and Simpson Company, 1913.

It would, perhaps, have been better if this recent publication, dealing with some of the important questions of public utility regulation, had been reviewed by one experienced in the engineering problems of the valuation of public service companies, rather than by one who can only judge of the usefulness of the work